

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF MASSACHUSETTS
BOSTON DIVISION

ELV ASSOCIATES, INC.,)	
)	
Plaintiff,)	CIVIL ACTION
)	FILE NO. 04-10930-RGS
v.)	
)	
PARK OFFICE PROPERTIES II, LLC,)	
)	
Defendant.)	
_____)	

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION
FOR APPROVAL OF MEMORANDUM OF LIS PENDENS**

COMES NOW Defendant Park Office Properties II, LLC ("POP II") and files its Response to Plaintiff's Motion for Approval of Memorandum of Lis Pendens. In support thereof, POP II states the following:

ARGUMENT

In asking this Court to approve its Memorandum of Lis Pendens, Plaintiff ELV Associates, Inc. ("ELV") asserts that the instant case "plainly warrants an order requiring specific performance" of an alleged contract between the parties. *See* Memorandum in Support of Plaintiff's Motion for Approval of Memorandum of Lis Pendens ("Memorandum of Law"), p. 4. ELV further asserts that it has an interest in real estate which POP II contests in that no binding agreement, or even an agreement which complies with the Statute of Frauds, has been proven. POP II files its Response specifically to deny these assertions and to reserve its right to cancel any memorandum of lis pendens resulting from the instant Motion upon final resolution of ELV's claim of a binding agreement impacting realty or for specific performance.

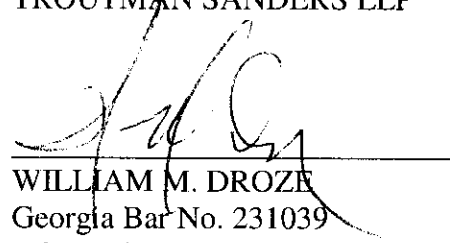
Although POP II vigorously denies that ELV has asserted any claim that would entitle it to specific performance or any other remedy in this case, POP II recognizes that the validity of ELV's legal claims is not before the Court on the instant Motion. *See Sutherland v. Aolean Development Corp.*, 399 Mass. 36, 40-41 (1987). POP II consequently will refrain from extensive legal argument or a recitation of the facts in response to ELV's lengthy Memorandum of Law.

However, Mass. G.L. c. 185, § 114 permits cancellation of a memorandum of lis pendens by court order upon any reasonable ground. *See, e.g., Cafarella v. Rizzo*, 354 Mass. 92, 93 (1968). POP II therefore expressly reserves its right under Mass. G.L. c. 185, § 114 to move the Court for cancellation of any memorandum of lis pendens that may be issued as a result of the instant Motion upon final resolution of ELV's claim of a binding agreement impacting realty or for specific performance.

This 27th day of July, 2004.

[Signature on next page.]

TROUTMAN SANDERS LLP

A handwritten signature in black ink, appearing to read 'W. M. Droze', is written over a horizontal line.

WILLIAM M. DROZE

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Admitted Pro Hac Vice

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Attorneys for Defendant

Park Office Properties II, LLC

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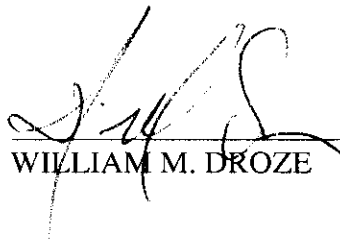
ELV ASSOCIATES, INC.,)	
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Plaintiff,)	CIVIL ACTION
)	FILE NO. 04-10930-RGS
v.)	
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PARK OFFICE PROPERTIES II, LLC,)	
)	
Defendant.)	
_____)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served a copy of the foregoing
**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR APPROVAL OF
MEMORANDUM OF LIS PENDENS** upon the interested parties by placing a copy
thereof in the United States mail with adequate postage thereon and addressed as follows:

Martin M. Fantozzi
Patrick M. Curran, Jr.
Goulston & Storrs, P.C.
400 Atlantic Avenue
Boston, Massachusetts 02110-3333

This 27th day of July, 2004.



WILLIAM M. DROZE